

Remarks

Applicant has carefully considered the Examiner's remarks and in view thereof submits certain amendments with respect to the rejection under 35 USC 112 and traverses all of the Examiner's arguments with respect to 35 USC 102 and 103 as will be discussed in detail hereinbelow.

Applicant traverses the Examiner's position that a substrate is required in the claims. Applicant does not deny the "simplest form" language which is present in the specification. However the Examiner's attention is drawn to the first paragraph of the Summary of the Invention which does NOT require a substrate. In order to advance prosecution of this application Applicant has amended Claims 1 and 32 to include mention of a substrate. Applicant maintains his position that while the invention will usually be used on a substrate, it is novel, unobvious and useful without a substrate, and maintains his right to claim it as such in the future in this, a continuation, continuation in part or divisional application hereof.

Applicant thanks the Examiner for her kind suggestions with respect to claims 1, 42, 30 and 48 which have been amended accordingly.

With respect to the rejection over applicant's patent 5, 053,339 Applicant agrees that the preamble of the present claims is insufficient to distinguish over applicant's earlier disclosure. However this is not the issue. Unfortunately the Examiner has misread the passage in the reference to which she refers. The cited passage is clear that the components (activator and indicator) are mixed into separate matrices which MAY be chemically the same but are NOT unitary as is the case in the present invention. While the abstract is not considered as part of the disclosure, it is clearly stated therein that there may even be a BARRIER matrix between the two tapes.. Thus this basis of rejection falls and must be withdrawn.

The rejection over Raemer is respectfully traversed. The nature of the substrate

is totally irrelevant to the present invention (except with respect to Ignacio which will be discussed below).

In the first place there is no reason why one seeking detectors for plasma would be led to even consider that a device for detection carbon dioxide in a tracheal tube, i.e. a device for use within the human body or used highly adjacent thereto, might have anything useful to teach with respect to a sterilization atmosphere which utilized a highly active sterilizant such as plasma.

In any case the indicator appears to be ATTACHED to a substrate by adhesion or covalent linking rather than incorporated in a polymer with an activator.

In view of these differences, it is respectfully submitted that Raemer is not available as a reference and that this ground of rejection should be withdrawn.

In previous submissions applicant has argued vigorously, deeply and substantially with respect to the non applicability of Ignacio, either per se or in combination with Kipke.

Ignacio is directed to peracid detection, as previously pointed out, the mechanism of action of plasma differs substantially from that of plasma, even if, as is there case here, the plasma is DERIVED from peracids. Ignacio teaches the use of blotting paper as a substrate. It is well understood by those skilled in the art that plasma would destroy such a material rendering the method useless for plasma detection. In any event the passing reference to plasma is vague and certainly not suggestive or teaching. Does it mean the system can be used for plasma *per se* or in conjunction with per acid. What is meant by the phrase "may not include a plasma step"? Is this a prohibition or merely a remark to state the system will work without the presence of a plasma step. The chemistry is also wrong (summary : paragraph 7), per acids do not produce halogenation, they produce HYDROHALOGENIC acid. Ignacio requires a housing and a vapour barrier which the present invention does not. It further requires the substrate to be INSIDE the housing, which again is not required in the present invention.

Since Ignacio is not available as a primary reference (for reasons expressed above), the citation of the secondary reference to Kipke adds nothing. The segment of Kipke

cited by the Examiner does not support her position of relevance. Three types of polymer are mentioned: those that will react with the disinfectant solution to provide an acidic environment, those that will provide a basic environment and those that will swell in an aqueous medium. None of applicant's polymers fall within these groups. The "vinyl acetate" moiety mentioned by the Examiner, is COPOLYMERIC with maleic anhydride, the latter providing the potential acidic property. Thus, apart from the fact that the Kipke system is designed to operate in a liquid environment, itself an indication away from the present invention, there is no teaching in this reference which would be helpful in the design of the present invention. Thus Kipke *per se* causes the rejection to fall. Since the basis of combination of references to support an obviousness rejection requires suggestion of using a secondary reference to complete the teaching of a primary reference, and such suggestion is not present, the citation of these to references in combination is unsound and the rejection must be withdrawn.

In view of the foregoing, it would appear that there is no tenable ground for rejection of any of the claims in the present application, and their prompt passage to issue is respectfully solicited. However if minor issues remain, the Examiner is requested to call the undersigned before issuing an advisory action so that these matters may be telephonically resolved.

This is to certify that the foregoing paper was transmitted by telefax to the Commissioner for Patents at 703 872 9306 on July 10th 2005

Respectfully submitted,


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